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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(El Dorado)

Conservatorship of the Person and Estate of EDNA H.

EL DORADO COUNTY PUBLIC GUARDIAN,

Petitioner and Respondent,

v.

EDNA H.,

Objector and Appellant.

C067678

(Super. Ct. No.
PMH20100120)

Edna H., a Lanterman-Petris-Short Act (LPS; Welf. & Inst. Code, § 5000 et seq.)¹ conservatee, appeals the finding she is gravely disabled as a result of a mental disorder and the imposition of special disabilities. She claims there is not substantial evidence to

¹ Further undesignated statutory references are to the Welfare and Institutions Code.

support the finding of grave disability; specifically, there is not substantial evidence she suffers from a diagnosed mental disorder and there is not substantial evidence any such mental disorder caused her inability to provide for her basic personal needs. We disagree. Edna also contends there is not sufficient evidence to support the imposition of special disabilities denying her the rights and privileges to possess or carry firearms, possess a driver's license, enter into contracts, give or withhold consent to medical treatment both related and unrelated to her grave disability, and vote. We find substantial evidence supporting the imposition of all the special disabilities, except the denial of Edna's right to vote. We shall remand to the trial court to restore Edna's right to vote. In all other respects, we affirm.

BACKGROUND

On April 6, 2010, Deputy Conley responded to Edna's trailer after she made a call that one of her neighbors was waving a gun at her and causing a disturbance. When he arrived, there was no one near the trailer. Edna would not let him inside her trailer but spoke to him through the screen door. She told him her neighbor Monica was dangerous, and went back and forth between insisting he needed to arrest Monica and stating Monica had already been arrested. Monica was not home, no neighbors had seen Monica, and none had seen anyone with a gun. Edna appeared delusional at the time, talking on her phone and conversing with people who were not there. Edna informed Conley she was eating regularly but had some medical problems. He summoned medics. After some reluctance, Edna allowed the medics to examine her. The trailer appeared dirty and unkempt, with a lot of dirty dishes, and it smelled strongly of urine. Conley did not feel the condition of the house was safe. He tried to make arrangements for Edna. He called her son, tried to contact Adult Protective Services, and tried to get her to go with the medics. Edna refused all further assistance from the medics. Conley did not take Edna into protective custody.

Six days later, Edna was brought to the hospital via ambulance.² She reported that between three and six days earlier, she had fallen and could not get up. A Meals on Wheels driver had attempted to deliver a meal, found her with an altered level of consciousness, and called paramedics. Paramedics reported Edna was on the floor with feces and urine surrounding her. She was wrapped in plastic bags because she had been cold. She was confused, disoriented, and severely dehydrated. Edna reported she was covered in feces because she could not get up and had used the plastic bags to keep herself warm. She had pulled a box down on herself looking for food because she had no food, medicine, or water. She was placed on a section 5150 hold, primarily because of delusions and hallucinations. She was not cooperative with medical recommendations, often refused to have her vital signs taken, and refused appropriate care. Edna remained hospitalized for four days and was discharged on April 16, 2010.

Two days later, law enforcement found Edna sitting on a curb in the Central Valley in her Marshall Hospital hospital gown. Officers took her to the hospital to be evaluated. She was advised not to drive and to follow up with her primary care doctor. The next day she was hospitalized in Southern California as the result of a car accident that occurred while she was driving. She was hospitalized for four days, although she sustained only a minor laceration to her left arm. She was uncooperative with tests and very lethargic. The hospital recommended a section 5150 evaluation, but Edna left the hospital against medical advice and before the evaluation could be completed.

On April 27, 2010, law enforcement officers were dispatched to a local motel. Edna had fallen in her room and could not get up. The motel was concerned about her safety within the facility and their ability to care for her. Based on their concerns, they would not allow her to remain at the motel. She did not have food at the motel but stated

² The medical records from Marshall Hospital were admitted into evidence without objection.

she could order food. Edna refused medical attention and the paramedics did not transport her to the hospital. She appeared coherent at the time. Edna did not want to go home, because she wanted her residence cleaned up before she went home. Deputy St. Pierre of the crisis intervention team (CIT) took her home. The floor was littered with garbage and clothing, and there were dirty dishes in the sink, but the trailer did not appear dangerous.

Adult Protective Services referred Edna's case to Kathryn Cain, a deputy public guardian, in mid- to late April. Cain went to interview Edna for an assessment of a conservatorship. Edna would not let her in the trailer but talked to her through a screen. Cain could see through the window that the trailer was messy, and the smell of urine was overpowering. She served an intent to petition for a temporary conservatorship, which Edna threw out the window of the trailer. Edna poked a small stick at Cain and told her to go away. Cain could see Edna was lying on a sofa and did not know what her medical condition was.

Cain returned to Edna's trailer with Robert Bloom, the director of crisis residents at the Department of Mental Health. Paramedics and law enforcement were also at the scene. Eventually, they were able to get Edna to agree to let them examine her.

"Everybody" agreed Edna needed medical attention. Edna refused medical treatment; her thinking was disorganized and her behavior uncooperative. Edna was living in squalor and was floridly psychotic. She was making statements that were out of touch with reality and quite delusional. The floor of the trailer was covered with garbage, debris, and clothing. There was a loaf of bread in the freezer and "absolutely nothing" in the refrigerator. There was a Crock-Pot full of urine sitting near the table, and the couch Edna had been lying on "was so soaked with urine that it was running onto the floor." The trailer was unsanitary and appeared uninhabitable. Accordingly, Bloom placed her on a section 5150 hold so she could be transported to the hospital. She continued to refuse medical attention and the paramedics had to carry her from the trailer in a blanket.

In the emergency room, Edna refused to answer any questions, refused to accept any treatment, would not accept any medication, and would not allow her vital signs to be taken. She appeared extremely paranoid with evidence of very disorganized thought processes. She refused to tell the medical staff if she was taking any medications and refused to inform the staff of any known allergies. She did accept a dinner tray.

Cain obtained a temporary conservatorship so they could provide Edna with the care she needed. Cain proceeded to put services in place and began looking for more suitable housing. While Edna was hospitalized, Cain had the trailer cleaned by a cleaning service. The service came in and cleaned out all the garbage and hazardous materials. Cain and another deputy went in and also helped clean the floors, bathroom, and sink. The couch had to be removed, as it was “soaked with urine and likely feces. It was not salvageable.”

Two days after her admission, Dr. Eubanks, Marshall Hospital’s consulting psychiatrist, examined Edna and noted she had a “many-year history of schizophrenia, refusal to accept treatment . . . and the patient has recent history of paranoid and grandiose delusions and refusal to accept care.” Edna made minimal eye contact with Dr. Eubanks. She refused to answer his questions, stated she was refusing any and all types of medical care and all medications, and refused to verbally interact with the staff. Her comments, “besides displaying her fixed paranoid ideation, did reveal tangential and disconnected thoughts.” He diagnosed her with “[s]chizophrenia, paranoid type, under acute exacerbation.” He recommended she be placed in a psychiatric inpatient facility, conserved, and placed on antipsychotic medication.

Approximately three weeks later, in late May 2010, Edna’s psychosis had improved. As her psychosis improved, she agreed to allow a diagnostic workup and treatment, and was willing to have her arm treated. Dr. Dickson noted her history included a number of physical ailments, as well as a diagnosis of paranoid schizophrenia. Upon examination, Dr. Dickson observed Edna was “either ill-informed about the state of

her right arm or is still having some amount of psychosis since she does not believe that she has her elbow arthroplasty in her arm anymore and no surgeries have been performed since the last x-rays in April, which demonstrated an elbow arthroplasty and fracture.”

Dr. Pathak reported on May 31, 2010. He noted that when Edna was admitted to the hospital, she was psychotic. He reported she did not want to go to a skilled nursing facility and that if she did, “ ‘I would kill her.’ ” Dr. Pathak did not believe Edna was schizophrenic, but rather that she suffered from dementia with acute psychosis. She was medicated with Haldol, which had improved her psychosis. He agreed she could not currently live independently and should be placed in a skilled nursing facility. Edna did not agree.

Dr. Bajwa reported that because of Edna’s psychosis, no skilled nursing facility would accept Edna. She had schizophrenia and continued to refuse to take Haldol or any other antipsychotic medication. Her acute psychosis slowly resolved on its own. Edna was discharged on June 2, 2010.

Deputy Bryant was dispatched to Edna’s home on July 2, 2010. He received a report that Edna was walking around in the road talking to herself. The report indicated she had been outside all night long, knocking on the doors of other residents, speaking gibberish. She was trying to get into her neighbor’s trailer, saying her children had died in there. When he made contact with Edna, she appeared delusional and incoherent. She stated President Obama was coming to pick her up to take her to a wedding. She claimed he had been shot in the heart but was okay. She talked about someone named Shirley Watson, who she claimed had been shot in the head and had threatened to shoot her children in the head. She spoke about her son, who she said was a U.S. Marshall, who had been shot and was lying next door. The trailer was “real smelly, dirty, just a real pungent smell.” Because of her delusional state, the deputy could not get any answers from Edna, so he placed her on a section 5150 hold. He contacted the public guardian and called the medics. The medics took her to the hospital by ambulance.

Edna was admitted to the hospital with an “[a]ltered level of consciousness.” She complained she had “ ‘bleeding in the brain’ ” and needed surgery. A CT scan showed no intracranial bleeding. Edna also stated she was “ ‘refusing all medical attention until my 2 sons are brought here by President Barack Obama. One is living, one is dead, and my fiance, John Barack Obama from Utah.’ ” She also refused to speak to the attending physician, Dr. Lamers.

Dr. Lamers consulted with Bloom and Dr. Price. Dr. Price is a psychiatrist and the medical director of the El Dorado County Health Services Mental Health Division. At that time, Dr. Price believed Edna most likely had dementia and that her altered mental status was due to her urinary tract infection. Dr. Price wanted her reevaluated after her urinary tract infection was under control. Dr. Lamers disagreed with Dr. Price. She noted that during Edna’s previous hospitalization, Edna defied efforts at placement and refused most treatment. She had been psychiatrically evaluated and diagnosed with paranoid schizophrenia. Since being released home, Edna had not been taking her medications and had deteriorated mentally. Ultimately, Dr. Price agreed to present Edna to Heritage Oaks, a geriatric psychiatric facility. Because of her urinary tract infection, Heritage Oaks declined her admission. She was admitted to the hospital.

Dr. Eubanks again evaluated Edna. He noted she was admitted “with almost identical complaints and circumstances as those surrounding her May 2010 admission. . . . More specifically, the patient . . . once again became acutely psychotic with paranoid grandiose delusions, rambling and incoherent speech and inability to maintain adequate self care.” He noted she had a many-year history of diagnosis of schizophrenia, paranoid type, and a refusal to comply with outpatient psychiatric treatment. During inpatient care, she showed an ability to improve but was “unable to maintain her functioning outside the hospital.” Edna was again extremely uncooperative due to her paranoid ideation. Dr. Eubanks recommended beginning antipsychotic medication and initiating a temporary conservatorship.

Edna was also examined by Dr. Bajwa. In addition to the previously reported delusions, Dr. Bajwa reported Edna continued to have delusions and hallucinations. She believed people were “ ‘being embalmed alive’ ” at the hospital. She was more cooperative than she had been upon admission but still believed she was getting married in the hospital chapel to John Barack Obama, “ ‘a person whom she fell in love [with] after hearing his voice.’ ”

Dr. Barnhill assessed Edna as having acute psychosis with associated underlying paranoid schizophrenia and associated noncompliance with her medications. Edna was transferred to the psychiatric health facility on July 4, 2010. At the psychiatric hospital, she refused to take medications and the facility obtained a court order. She remained there for approximately 30 days.

On July 26, 2010, Edna called an ambulance with multiple somatic complaints. She complained of multiple spider bites and felt as though the spiders were trying to crawl out of her skin. She had not slept in a number of days. She also reported her trailer was infested with spiders. The deputy guardian had been in her trailer on a weekly basis over the preceding months and had not seen any spiders. Following an extensive evaluation, Dr. Gwinup was unable to substantiate any of Edna’s physical complaints. She did not “appear to be acutely decompensated in regards to her paranoid schizophrenia, although she does have paranoid delusions.”

Edna was admitted to the hospital. She reported different symptoms to the admitting physician than she had presented to the emergency room doctor, although she continued to complain of multiple spider bites. The admitting physician believed she was delirious or psychotic. The doctor also noted she was dehydrated.

Because of Edna’s “repeated admissions and inability to care for herself outside of the hospital and her illogical speech and impaired reality contact,” Dr. Eubanks again examined Edna. Dr. Eubanks continued to diagnose Edna with chronic schizophrenia. Edna was unwilling and unable to provide a coherent account of events that led to her

admission to the hospital. She continued to refuse to answer questions, denied the presence of any psychiatric symptoms, and denied the need for medication. She had been experiencing and describing visual and tactile hallucinations, her judgment and insight were grossly impaired, and she refused to accept the need for any treatment, assisted living, or antipsychotic medication. As a result of these refusals, she continued to “present to an acute medical facility for repeated admissions.”

The hospital transferred Edna to Heritage Oaks on July 30, 2010. Dr. Bajwa reported he had seen Edna during at least the last two or three of her hospitalizations and had seen all of her psychotic symptoms. He noted that although she did improve, it was not to a point where she would accept her diagnosis of schizophrenia; she would not accept treatment and threatened to sue Dr. Bajwa and the hospital if they did not remove the references to a diagnosis of schizophrenia from her records. On the day of discharge, Edna denied any problems. She had complained of an episode of chest pain the day before, but then refused to have a stress test done. When Dr. Bajwa mentioned schizophrenia, Edna did not allow him to examine her, requested he leave her room, and requested another physician. Dr. Bajwa believed she was stable so he discharged her.

After discharge, Edna started having psychotic symptoms again. She reported she had a mass in her abdomen and needed to go to Sutter Roseville for surgery. She was evaluated by a social worker from the psychiatric health facility, placed on a section 5150 hold, and transferred to Heritage Oaks. While at Heritage Oaks, she refused to take any medication. In August 2010 Dr. Lloyd Benjamin, the treating psychiatrist at Heritage Oaks, obtained a court order to medicate Edna against her will. With medication, Edna’s symptoms began to subside and she agreed to stay at Heritage Oaks as a voluntary patient. Dr. Benjamin believed she was gravely disabled. Edna remained at Heritage Oaks through September 2, 2010. She was willing to participate in services and an LPS conservatorship was not initiated.

Edna remained at home from September 2, 2010, until November 22, 2010. During that period, she received intensive case management services. These services included Meals on Wheels, a weekly in-home caregiver, and monitoring on a daily basis. Also during this time, Dr. Price and Jessica Solomon, an investigator at the El Dorado County Mental Health Division, performed a welfare check at Edna's trailer. At that time, Edna was cooperative and pleasant, although she exhibited some paranoid thoughts, impaired judgment, and poor insight into her condition. Dr. Price reported she was taking her medications at the time he visited her.

Despite these services, Edna decompensated again and was hospitalized at Heritage Oaks. She presented with hallucinations and delusions, although she was more docile and withdrawn. Edna was placed on a section 5150 hold and admitted to Heritage Oaks. Because she was nonambulatory, she could not be treated at the psychiatric health facility. During the hospitalization, Edna again refused to take medication and a court order was obtained to medicate her against her will. With the administration of medications, her symptoms began to decrease. Solomon initiated an LPS conservatorship investigation based on Dr. Benjamin's recommendation. Solomon, who holds a master's degree in clinical psychology, reviewed the records from Heritage Oaks and Marshall Hospital, the sheriff's department, the public guardian, and assorted other records obtained from Edna's belongings. Solomon concluded Edna could not provide for her own food, clothing, or shelter and could not participate in services that would assist her in providing for those basic needs. Accordingly, she concluded Edna was gravely disabled.

Edna remained at Heritage Oaks from November 22 through December 27, 2010. On December 20, 2010, the trial court granted a temporary conservatorship. On December 27, 2010, Edna was transferred from Heritage Oaks to Crestwood Manor, another psychiatric hospital. Based on Bloom's contacts with Edna, he believed she was gravely disabled.

Cain also testified Edna made various complaints about her trailer. She complained it was “ ‘raining’ ” in the trailer, there was methane gas, and she was “ ‘freezing to death.’ ” Cain examined the trailer and determined there were no water stains on the floor and no leaks in the trailer. Edna had not had hot water for over four years. She had a functioning space heater in the trailer, but Cain brought her another one.

Jennifer Dwight-Frost, the social worker at Marshall Hospital, testified that Edna was cooperative with the hospital services at times and combative at other times. She did not want to take prescribed medications and did not want to follow through with physical therapy. She particularly did not want to take any psychiatric medication. During the last three times she was admitted, the hospital provided a “sitter” for her, that is, someone with medical training, usually a certified nursing assistant, to stay in the room or just outside. The doctors felt this was necessary because Edna was disoriented, hallucinating, combative, and not oriented as to her location. Dwight-Frost had also observed Edna’s hallucinations, including her belief that she was scheduled for brain surgery.

At the hearing, Edna continued to deny she had a psychiatric diagnosis, although she admitted she had experienced bouts of depression related to illness. She denied the couch had been urine soaked, claiming it was wet with rainwater.

As a psychiatrist and the El Dorado County Mental Health medical director, Dr. Price regularly relies on the opinions of other psychiatrists. Dr. Price reviewed Edna’s mental health records, spoke with Drs. Benjamin and Pathak, and considered his interview of her. He concluded she was unable to provide for herself due to multiple problems.

The public guardian filed a petition seeking the appointment of a conservatorship of the person and the estate. The petition also requested the imposition of special disabilities on Edna’s right to possess or carry firearms, possess a driver’s license, enter into contracts, vote, and refuse or consent to medical treatment. Following trial, the trial

court found Edna had a mental disability that rendered her unable to provide for her food, clothing, or shelter and imposed the requested special disabilities.

DISCUSSION

I

Grave Disability

The LPS Act authorizes appointment of a conservator of the person, of the estate, or of the person and the estate of any person who is gravely disabled as a result of mental disorder. (§ 5350.) As applied to this case, “gravely disabled” means “[a] condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.” (§ 5008, subd. (h)(1)(A).) Grave disability must be established by proof beyond a reasonable doubt. (*Conservatorship of Roulet* (1979) 23 Cal.3d 219, 235.)

On appeal, “we apply the substantial evidence test to determine whether the record supports a finding of grave disability. [Citation.] The testimony of a single witness is sufficient to support the trial court’s finding.” (*Conservatorship of Johnson* (1991) 235 Cal.App.3d 693, 697.) “ ‘ “In resolving the issue of the sufficiency of the evidence, we are bound by the established rules of appellate review that all factual matters will be viewed most favorably to the prevailing party [citations] and in support of the judgment ‘In brief, the appellate court ordinarily looks only at the evidence supporting the successful party, and disregards the contrary showing.’ [Citation.] All conflicts, therefore, must be resolved in favor of the respondent.” ’ ” (*Conservatorship of Isaac O.* (1987) 190 Cal.App.3d 50, 57, italics omitted.) In our review we do not reweigh the evidence or assess the credibility of witnesses, nor do we attempt to resolve factual conflicts. (See *People v. McKissack* (1968) 259 Cal.App.2d 283, 287.) “Substantial evidence includes circumstantial evidence and the reasonable inferences flowing therefrom.” (*Conservatorship of Walker* (1989) 206 Cal.App.3d 1572, 1577.) A lack of insight into one’s mental illness and the concomitant reluctance to accept treatment

provides evidence in support of a finding of grave disability. (*Id.* at p. 1577; *Conservatorship of Guerrero* (1999) 69 Cal.App.4th 442, 446-447.)

Contrary to Edna's claim, our reading of the record indicates Dr. Price was offered as an expert witness, without objection, and testified as an expert. "Testimony by medical professionals relating to mental disability is indisputably expert testimony. To testify as an expert, a witness must possess adequate knowledge, training, and experience. But to challenge a witness on the ground of inadequate qualifications, the opponent of the testimony must lodge an objection, and the trial court determines the witness's competency as a preliminary fact. (Evid. Code, § 720, subd. (a); see also *People v. Flores* (1992) 7 Cal.App.4th 1350, 1359-1360 [claim that witness lacked necessary expertise was forfeited due to lack of objection].)" (*In re Joy M.* (2002) 99 Cal.App.4th 11, 19.) No such objection was made in this case. Accordingly, any challenge to Dr. Price as an expert witness was forfeited.

"A psychiatrist is permitted to testify on a person's mental capacities and can rely on hearsay including statements made by the patient or by third persons." (*Conservatorship of Torres* (1986) 180 Cal.App.3d 1159, 1163.) Dr. Price was also entitled to rely on the observations of other mental health professionals, such as those contained in the patient's medical records, because such information is "of a type that reasonably may be relied upon by an expert." (Evid. Code, § 801, subd. (b); see *People v. Campos* (1995) 32 Cal.App.4th 304, 307-308.)

Edna claims there is not substantial evidence she has a diagnosed mental disorder. We disagree. Dr. Eubanks repeatedly diagnosed Edna with schizophrenia. Numerous examining and treating doctors agreed with Dr. Eubanks' conclusion. Various examining doctors, crisis intervention team law enforcement officers, and mental health professionals observed Edna firsthand. They described paranoid and grandiose delusions, visual and tactile hallucinations, acute and florid psychosis, disorganized and tangential thinking, extreme paranoia, and incoherence. These conditions improved with

psychiatric medications. When she was not psychiatrically medicated, she decompensated. Although we might wish the evidence in this case had been presented in a more coherent and comprehensive manner, this is sufficient evidence supporting the finding that Edna has a diagnosed mental disorder.

Edna also contends there is not sufficient evidence to support the finding she is gravely disabled, that is, that as a result of her diagnosed mental disorder, she is unable to provide for her personal needs for food, clothing, or shelter. Again, we disagree.

Edna consistently denied she had any mental illness. Her history is filled with evidence that when she is suffering from psychosis, delusions, and paranoia she repeatedly and consistently refuses any treatment. Her symptoms improve with psychiatric medication. When her psychiatric symptoms improve, she allows treatment, including voluntarily remaining at Heritage Oaks to receive psychiatric treatment.

Bloom, Solomon, Dr. Price, Dr. Eubanks, and Dr. Benjamin each concluded Edna was unable to provide for her basic needs. Law enforcement officers and Dr. Price had contacts with Edna when she was medicated and had not decompensated. In those instances, while her home was messy, it was not unsafe or unsanitary. By contrast, there were repeated occasions when she was unmedicated, had decompensated, and was in the throes of her mental illness. At those times, the condition of her home also deteriorated to the point that it was squalid, uninhabitable, and unsafe. In one instance, there was no food in her refrigerator and only a loaf of bread in the freezer. Twice she was dehydrated when hospitalized. On at least one occasion, law enforcement found her on the street in a hospital gown.

It was reasonable for the trial court to infer from this evidence that as a result of her mental illness, when Edna is unmedicated, she is unable to provide for her personal basic needs of shelter, food, or clothing. Furthermore, it is clear from this record that Edna lacks insight into her mental illness and will not comply with treatment and

medication recommendations. Accordingly, there was substantial evidence supporting the finding that she was gravely disabled.

II

Special Disabilities

Edna contends “for the same reason,” there is insufficient evidence supporting the imposition of special disabilities.

“If a person is found gravely disabled and a conservatorship is established, the conservatee does not forfeit legal rights or suffer legal disabilities merely by virtue of the disability. (§ 5005; *Conservatorship of Walker* (1989) 206 Cal.App.3d 1572, 1578.) The court must separately determine the duties and powers of the conservator, the disabilities imposed on the conservatee, and the level of placement appropriate for the conservatee. (§§ 5357, 5358.) The party seeking conservatorship has the burden of producing evidence to support the disabilities sought, the placement, and the powers of the conservator, and the conservatee may produce evidence in rebuttal.” (*Conservatorship of Christopher A.* (2006) 139 Cal.App.4th 604, 612.)

However, we see no grounds for reversal. In issuing its order, the trial court specified each of the powers and disabilities it imposed. Implicit in Edna’s argument is a claim that a specific, on-the-record statement of the reasons for each order is required. “We see no such legal requirement. Instead, we follow the usual rules on appeal (*Conservatorship of Isaac O.*, *supra*, 190 Cal.App.3d at p. 57) and ‘presume in favor of the judgment every finding of fact necessary to support it warranted by the evidence’ (*Homestead Supplies, Inc. v. Executive Life Ins. Co.* (1978) 81 Cal.App.3d 978, 984).” (*Conservatorship of George H.* (2008) 169 Cal.App.4th 157, 165.)

Right to Possess Firearm—To support a limitation on a conservatee’s ability to possess a firearm or deadly weapon, the court must find “that possession of a firearm or any other deadly weapon by the person would present a danger to the safety of the person or to others.” (§ 8103, subd. (e)(1).) When a person is admitted into a mental health

facility under section 5150, the individual may not own, possess, control, receive, or purchase firearms for five years after release from the facility. (§ 8103, subd. (f)(1).) Edna had numerous admissions under section 5150. Accordingly, she was statutorily prohibited from owning a firearm. Moreover, even in the absence of such a restriction, we would find substantial evidence to support this disability. Edna had numerous delusions, hallucinations, and extreme paranoia. These included the belief someone had been brandishing a gun outside her trailer, that she had been shot, that her fiancé John Barack Obama had been shot, that her son had been shot and was lying next door, and that someone was threatening to shoot her children. She also threatened that if she were placed in a nursing facility, she would “kill her.” Given the nature of these delusions and her mental illness, we find there is substantial evidence supporting the finding she could not safely possess a firearm.

Right to Possess Driver’s License—Similarly, the overriding concern in the issuance of a driver’s license is generally whether the person is able to operate a motor vehicle safely. (Veh. Code, §§ 12800, subd. (g), 12805, subd. (c), 12806, subd. (c); *People v. Superior Court (Wilson)* (1993) 18 Cal.App.4th 31, 36-37.) Mental disorders may affect a person’s “ability to exercise reasonable and ordinary control in operating a motor vehicle” and may be the basis for refusing that person a driver’s license. (Veh. Code, §§ 12800, subd. (g), 12806, subd. (c).) There was ample evidence that Edna suffered from visual and tactile delusions, as well as hallucinations. There is also evidence Edna had impaired judgment. Moreover, there was specific evidence of her driving after having been medically advised not to and being in a car accident shortly thereafter. This is sufficient evidence to support the restriction on her privilege to drive.

Right to Contract—Under Civil Code section 1556, persons of “unsound mind” are not capable of entering into contracts. There are essentially three classifications of incapacity based on an “unsound mind”: (1) entirely without understanding (Civ. Code, § 38); (2) unsound but not entirely without understanding (Civ. Code, § 39, subd. (a));

and (3) susceptible to undue influence (Civ. Code, § 39, subd. (b); *Smalley v. Baker* (1968) 262 Cal.App.2d 824, 834-835, disapproved on another point in *Weiner v. Fleischman* (1991) 54 Cal.3d 476, 485-486). Here, the evidence indicates Edna suffers from impaired judgment and impulse control. She suffers from paranoid and grandiose delusions, visual and tactile hallucinations, disorganized and tangential thinking, extreme paranoia, and incoherence. This is substantial evidence supporting the conclusion of unsound mind and supporting the denial of her right to contract.

Right to Refuse or Consent to Medical Treatment—In *Riese v. St. Mary's Hospital & Medical Center* (1987) 209 Cal.App.3d 1303, the Court of Appeal outlined the factors to be evaluated by the court in considering whether a gravely disabled person is incapable of making medical treatment decisions: “(a) whether the patient is aware of his or her situation (e.g., if the court is satisfied of the existence of psychosis, does the individual acknowledge that condition); (b) whether the patient is able to understand the benefits and the risks of, as well as the alternatives to, the proposed intervention . . . ; and (c) whether the patient is able to understand and to knowingly and intelligently evaluate the information required to be given patients whose informed consent is sought (§ 5326.2) and otherwise participate in the treatment decision by means of rational thought processes.” (*Riese, supra*, 209 Cal.App.3d at pp. 1322-1323.)

Using these criteria, the record supports the trial court’s finding that Edna was incompetent to make medical decisions, both related to her grave disability and unrelated to it.³ Edna consistently denied she had a mental illness and refused to take medications for it. In addition, when in an acute psychotic episode, she regularly refused treatment unrelated to her mental health. She refused to allow doctors to take her vital signs,

³ Based on the record in this case, we address these disabilities together. We acknowledge, however, these are distinct disabilities, to be imposed and considered separately by the trial court.

refused to provide medical histories, and refused to give information necessary to treat her, such as medications she was taking and any allergies. More than once she left the hospital against medical advice. She also repeatedly presented at the hospital with physical complaints and symptoms that were unsupported upon examination.

This evidence supports the finding that Edna is incompetent to make medical decisions when she is not medicated, as it demonstrates a lack of awareness or acknowledgment of her condition, an inability to understand proposed interventions, and an inability to understand and evaluate the information given to her and participate in treatment decisions with a rational thought process.

Right to Vote—As relevant here, the Elections Code provides that a person shall be disqualified from voting if a conservator of the person and estate is appointed and the person is “not capable of completing an affidavit of voter registration in accordance with [Elections Code s]ection 2150.” (Elec. Code, § 2208, subd. (a)(2).) Essentially, Elections Code section 2150 requires that the affidavit show the affiant’s name, place of residence, mailing address, date of birth and driver’s license or social security number, state or country of birth, political affiliation, prior voter registration, and whether currently imprisoned or on parole for a felony conviction. There is no evidence supporting the finding that Edna is not capable of completing an affidavit of voter registration.

There is ample evidence that Edna is confused and delusional, and has impaired judgment and insight. These factors do not, however, support the conclusion that she is unable to complete a voter registration affidavit.

There was no evidence presented on Edna’s ability to complete a voter registration affidavit. The only testimony on the salient points delineated in the statute was Edna’s testimony as to where she lived. She correctly identified her residence. She was not asked any other questions relevant to her ability to complete a voter registration affidavit. This is not sufficient evidence to support the finding that she was unable to complete an

affidavit of voter registration. Accordingly, we cannot uphold the imposition of that special disability.

DISPOSITION

The matter is remanded to the trial court, and the trial court is ordered to restore Edna's right to vote and to notify the county elections official that her right to vote has been restored. In all other respects, the order appointing a conservator and imposing special disabilities is affirmed.

RAYE, P. J.

We concur:

NICHOLSON, J.

MURRAY, J.